

AGREEMENT

This Agreement is made by and between The University of California (the University) and the Bureau of Export Administration, United States Department of Commerce (BXA).

WHEREAS, the University operates the Los Alamos National Laboratory (LANL), a highly specialized facility of the U.S. Department of Energy (DOE), and a federally funded research and development center, pursuant to Contract Number W-7405-ENG-36, which is authorized by the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011, et seq.), the DOE Organization Act, as amended (42 U.S.C. §§ 7101, et seq.), and other applicable laws;

WHEREAS, consistent with its mission as a national laboratory, LANL provided technical and material support for a cooperative nonproliferation initiative between DOE and certain entities of the Russian government;

WHEREAS, BXA has conducted an investigation regarding allegations that, in fulfilling its support role for the work of DOE in Russia, LANL exported, on or about December 7, 1994, a U.S.-origin helium-3 neutron detector and exported, on or about June 6, 1995, a U.S.-origin active well coincidence counter to Russia without obtaining the validated export license required under Section 772.1(b) of the Export Administration Regulations (then codified at 15 C.F.R. Parts 768-799 (1994 and 1995)) (hereinafter referred to as the former Regulations);¹ exported on or about May 2, 1996, a U.S.-origin active well coincidence

¹ The Export Administration Regulations are currently codified at 15 C.F.R. Parts 730-774 (1999) (the Regulations). The Regulations are issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act)). The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 *Fed. Reg.* 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

counter to Russia without obtaining the validated export license required under Section 772A.1(b) of the former Regulations;² and, exported on or about June 28, 1996, a U.S.-origin CISCO 2509 router to Russia without the license required under Section 742.4(a) of the Regulations;³

WHEREAS, this Agreement does not constitute an admission or denial by LANL to any violation of the Regulations.

WHEREAS, LANL has fully cooperated in BXA's investigation of the transactions outlined in this Agreement;

WHEREAS, LANL is firmly committed to compliance with the Act and the Regulations, and wishes to dispose of all matters that have been the subject of BXA's investigation; and

WHEREAS, LANL and BXA agree to be bound by this Agreement.

NOW THEREFORE, LANL and BXA agree as follows:

1. LANL will, within six months of this Agreement, jointly conduct with BXA a teach and learn seminar for the purposes of instructing LANL senior staff about licensing requirements, enforcement activities, and other pertinent information as they relate to export control issues and instructing BXA Office of Export Enforcement personnel about nuclear cycle, manufacture and material;

² 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714 (March 25, 1996)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. 768A-799A.

³ The March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996.

2. LANL will ensure that appropriate recurring training and guidance is provided to its appropriate personnel concerning export controls;

3. LANL will, within one year of this Agreement, complete a mandatory training program for all LANL technical staff about export controls and assign adequate staff resources to assure continued export control compliance;

4. LANL will, within six months of this Agreement, integrate export control matters into its strategic and business planning processes by issuing a Laboratory Operations Requirements document to address export control matters;

5. LANL will, within one month of this Agreement, incorporate guidance and questions developed jointly with BXA into LANL's pre-briefing and debriefing of technical staff traveling to foreign destinations;

6. LANL will, as part of its internal compliance program, initiate a review of its shipments to certain countries of concern for the past three years from the date of the Agreement, and report the results to the Director, Office of Export Enforcement, within six months of this Agreement.

7. BXA agrees that this Agreement resolves all allegations that might arise out of the investigation conducted by BXA, including those specifically described in this Agreement and that it will not initiate any administrative proceeding against LANL, or any of its current or former employees or officers in connection with that investigation;

8. LANL understands that BXA will make this Agreement available to the public, when executed;

9. BXA and LANL agree that the costs incurred by LANL in connection with the investigation are allowable costs under the Major Fraud Act, 41 U.S.C. § 256(k), and Section 31.205-47(c)(1) of the Federal Acquisition Regulations, 15 C.F.R § 31.205-47(c)(1);

10. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary the terms of this Agreement, when executed, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed therein; and

11. This Agreement shall become binding on BXA and LANL when executed by both parties.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

THE UNIVERSITY OF CALIFORNIA
LOS ALAMOS NATIONAL
LABORATORY

BY: Mark D. Menefee
Mark D. Menefee
Director
Office of Export Enforcement

Date: 6/26/00

BY: John C. Browne
John C. Browne
Director
Los Alamos National Laboratory

Date: 3/31/00